

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RAMON SAUL SILVA, JR.,

Plaintiff,

v.

ROGELIO ZARAGOZA,

Defendant.

CASE NO. 21-5235 RJB-SKV

ORDER ADOPTING REPORT AND  
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge S. Kate Vaughn. Dkt. 45. The Court has considered the Report and Recommendation (Dkt. 45), Plaintiff's objections (Dkt. 46), the Defendant's response to Plaintiff's objections (Dkt. 47), and Plaintiff's reply to Defendant's response to Plaintiff's objections (Dkt. 48), and the remaining record.

The Report and Recommendation recommends denying the Plaintiff's motion for summary judgment (Dkt. 14), granting the Defendant's cross motion for summary judgment (Dkt. 22), and dismissing the case with prejudice. Dkt. 45. The Report and Recommendation (Dkt. 45) should be adopted.

The Plaintiff's objections do not provide adequate grounds to reject the Report and Recommendation. The Plaintiff argues that the Defendant's expert witness testimony should be

1 stricken. Dkts. 46 and 48. As stated in the Report and Recommendation, the Plaintiff's motion  
 2 to strike expert witnesses (Dkt. 30) was denied on September 13, 2021 (Dkt. 40). Dkt. 45, at 2,  
 3 n. 1. The grounds Plaintiff raises in his objections are the same ones he raised in his prior  
 4 motion to strike and were addressed in the September 13, 2021 order. His objection regarding  
 5 the use of the expert witnesses' testimony does not provide a reason to reject the Report and  
 6 Recommendation. In his remaining objections, the Plaintiff reasserts his prior arguments – that  
 7 the various patients at Western State Hospital were treated differently and that “the use of  
 8 professional judgment in this case is trickery.” Dkt. 46. These arguments are addressed in the  
 9 Report and Recommendation; it should be adopted (Dkt. 45) and the case dismissed.

10 It is **ORDERED** that:

- 11 • The Report and Recommendation (Dkt. 45) **IS ADOPTED**;
- 12 • The Plaintiff's motion for summary judgment (Dkt. 14) **IS DENIED**;
- 13 • The Defendant's cross motion for summary judgment (Dkt. 22) **IS GRANTED**;
- 14 and
- 15 • This case **IS DISMISSED WITH PREJUDICE**.

16 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge S.  
 17 Kate Vaughn, all counsel of record, and to any party appearing pro se at said party's last known  
 18 address.

19 Dated this 4<sup>th</sup> day of January, 2022.

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21 ROBERT J. BRYAN  
 22 United States District Judge  
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